UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/919,090	07/31/2001	Kevin Collins	10006963-1	2456

7590 03/31/2006	EXAMINER
HEWLETT-PACKARD COMPANY	PHAM, HUNG Q

ART UNIT	PAPER NUMBER
2168	

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DATE MAILED: 03/31/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

	Application No.	Applicant(s)
Advisory Action ***Before the Filing of an Appeal Brief***	09/919,090	COLLINS ET AL.
	Examiner	**Art Unit**	
	HUNG Q. PHAM	2168	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED <u>20 March 2006</u> FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

   a) ☐ The period for reply expires _____months from the mailing date of the final rejection.

   b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

   Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

<u>NOTICE OF APPEAL</u>

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

<u>AMENDMENTS</u>

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will <u>not</u> be entered because

   (a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);

   (b) ☐ They raise the issue of new matter (see NOTE below);

   (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or

   (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

   NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).

5. ☐ Applicant's reply has overcome the following rejection(s): _____.

6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

   The status of the claim(s) is (or will be) as follows:

   Claim(s) allowed: _____.

   Claim(s) objected to: _____.

   Claim(s) rejected: 30-33, 35-42, 44 & 45

   Claim(s) withdrawn from consideration: _____.

<u>AFFIDAVIT OR OTHER EVIDENCE</u>

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will <u>not</u> be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).

9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will <u>not</u> be entered because the affidavit or other evidence failed to overcome <u>all</u> rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).

10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

<u>REQUEST FOR RECONSIDERATION/OTHER</u>

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: <u>See Continuation Sheet.</u>

12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____.

13. ☐ Other: _____.

TIM VO
PRIMARY EXAMINER

Response to the Request for Reconsideration of Final Office Action

Applicants' request for reconsideration of the Final Office Action as at page 10, lines 3-12, has been fully considered but not persuasive. Independent claims 41 and 46 were amended (Amendment 10/31/2005), and the amendment of claims 41 and 46 necessitates a new ground of rejection. Therefore, the Final Office Action based on the new ground of rejection of claims 41 and 46 was proper.

Objections

Claims 32, 41 and 46 were objected. The objection of claims 32 and 46 has been withdrawn in view of the amendment of claim 32 and cancellation of claim 46. The objection of claim 41 is sustained because the clause *a processor* at line 5 of claim 41 references to the clause *a processor* at line 2 of claim 41. The clause *a processor* at line 5 should be amended to *the processor*.

Specification

The objection of the Specification has been withdrawn in view of the cancellation of claim 46.

Rejections Under 35 U.S.C. § 112

Applicants direct examiner to page 5, lines 1-19, page 7, lines 25-30, page 13, lines 19-29, and page 19, line 23-page 20, line 7 as supportive evidence of the claimed *performing an action when an amount of available storage capacity on the storage device falls below a threshold*. However, as illustrated at the directed pages and lines, a threshold is set and when the amount of available storage <u>meets or exceeds</u> the threshold, an action is performed. Nowhere at the directed pages and lines have the description of *performing an action when an amount of available storage capacity on the storage device falls below a threshold*. Therefore, the rejection of claims 31, 37 and 41 is sustained.

The rejection of claim 34 under 35 U.S.C. § 112, second paragraph, has been withdrawn in view of the cancelation of claim 34.

Rejections Under 35 U.S.C. § 102 and 103

<u>Claims 30, 31, 36 and 37</u>

Applicants' request for reconsideration of claim 30, 31, 36 and 37 has been fully considered but not persuasive.

The claimed *"sorting a plurality of data files on the storage device into one or more categories based on at least one characteristic of the data files"* and *"sort a plurality of data files on a storage device associated with the processor into one or more categories based on at least one characteristic of the data files"* as in claims 30 and 36 are inherited features of Olarig technique, and Olarig teaches the claimed *"reallocate a portion of the data in a category of data files when a storage capacity consumed by the category of data files exceeds a threshold"*.

As taught by Olarig at FIG. 2, Col. 3, Lines 6-11, the local workstation or PC periodically inspects the used capacity of its storage to determine whether some of the data stored on the PC needs to be reallocated, e.g., moved to network storage. As further disclosed by Olarig at Col. 6, Lines 42-44, Window is the operating system of the PC. Window 98 is a well-known operating system. In Window 98, the visited Internet files are stored in Temporary Internet Files, and a particular amount of disk space could be set for Temporary Internet Files to store the visited Internet files. Thus, by using Window operating system as taught by Olarig, e.g., Window 98, *a plurality of data files on the storage device*, e.g., Internet files, are *sorted into one or more categories*, e.g., Temporary Internet Files, *based on at least one characteristic of the data files*, e.g., the visited Internet files, and *a plurality of data files on a storage device associated with the processor*, e.g., Internet files, are *sorted into one or more categories*, e.g., Temporary Internet Files, *based on at least one characteristic of the data files*, e.g., the visited Internet files. Examiner respectfully directs applicants to "1001 Window 98 Tips" (tips 908-910) that disclosed the Temporary Internet Files.

Referring back to FIG. 2, step 206, Col. 3, Lines 10-24, if a PC's storage space exceeds a threshold, the PC automatically determines which data has been least-recently used and automatically moves such amount of data to the network server's storage to free up a previously determined percentage of storage space on the PC. Thus, *a portion of the data in a category of data files*, e.g., data has been least-recently used in Temporary Internet Files, is *reallocated when a storage capacity consumed by the category of data files exceeds a threshold*, e.g., Temporary Internet Files exceeds the defined amount of disk space or threshold.

<u>Claims 41, 42 and 44</u>

A processor is an inherited feature of a computer that has Window 98 as its operating system. Therefore, Jamsa anticipates claim 41. Claims 42 and 44 depend from claim 41 and are unpatentable at least by virtue of this dependency.

Because of the above reasons, the rejection of claims 30-33, 35-42, 44 and 45 under 35 U.S.C. § 102 and/or 103 is sustained.